



Illinois Office of Health Information Technology



Health Information Exchange in Illinois

**ILHIMA Annual Meeting
May 3, 2012**

**Mark Chudzinski
General Counsel, OHIT**

Office of the Governor, State of Illinois

Agenda

- I. Introduction to PHI, EHR, HIE
- II. Government Promotion of EHR & HIE
- III. Privacy & Security – current landscape
- IV. Privacy & Security – road ahead

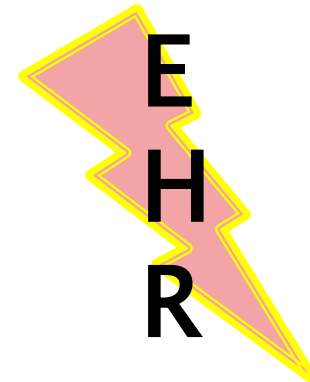
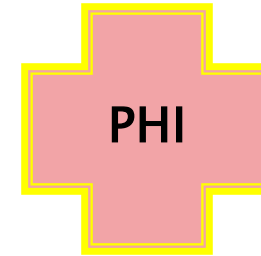
DISCLAIMER: This document from the Office of Health Information Technology (OHIT) is for general informational purposes only. It should not be considered legal advice.

I. Introduction to PHI, EHR, HIE

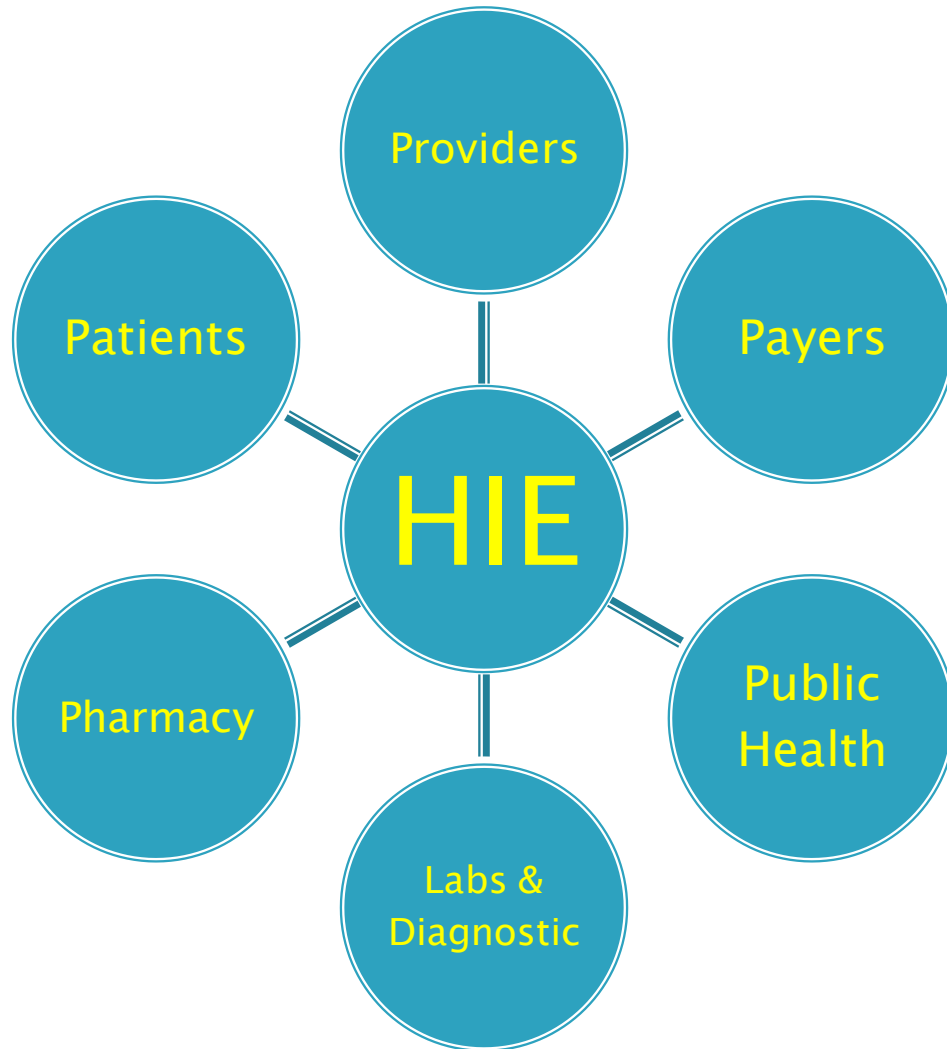
- Key Terms
- IL HIE Participants

Key Terms

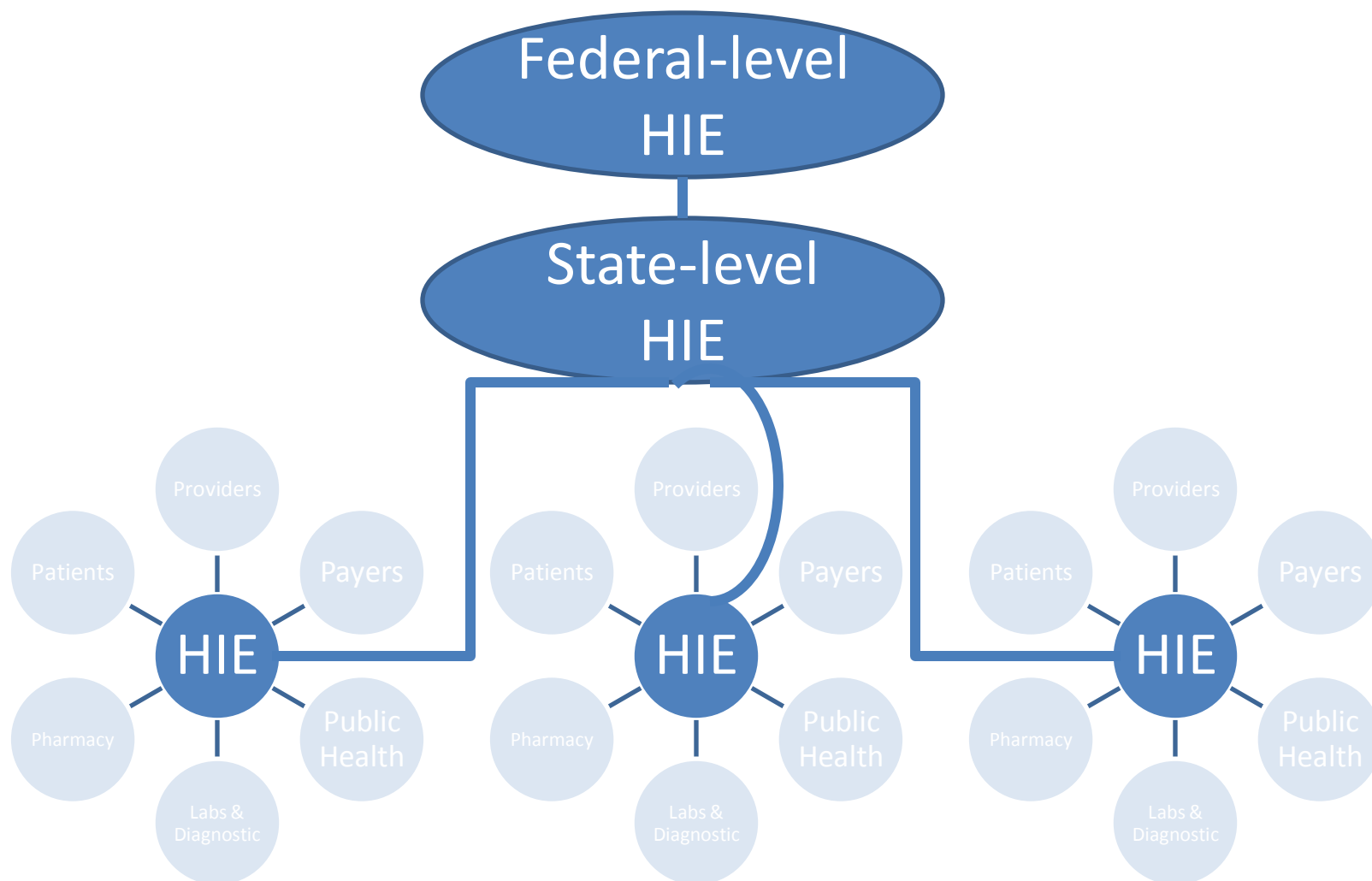
- ▶ Protected Health Information (PHI) –
 - patient/ personal health data
- ▶ Electronic Health Record (EHR) –
 - a real-time electronic record of health-related information on an individual, and that can be created, managed and consulted by authorized clinicians across more than one health care organization
- ▶ Health Information Exchange (HIE) –
 - the electronic movement of health information among organizations



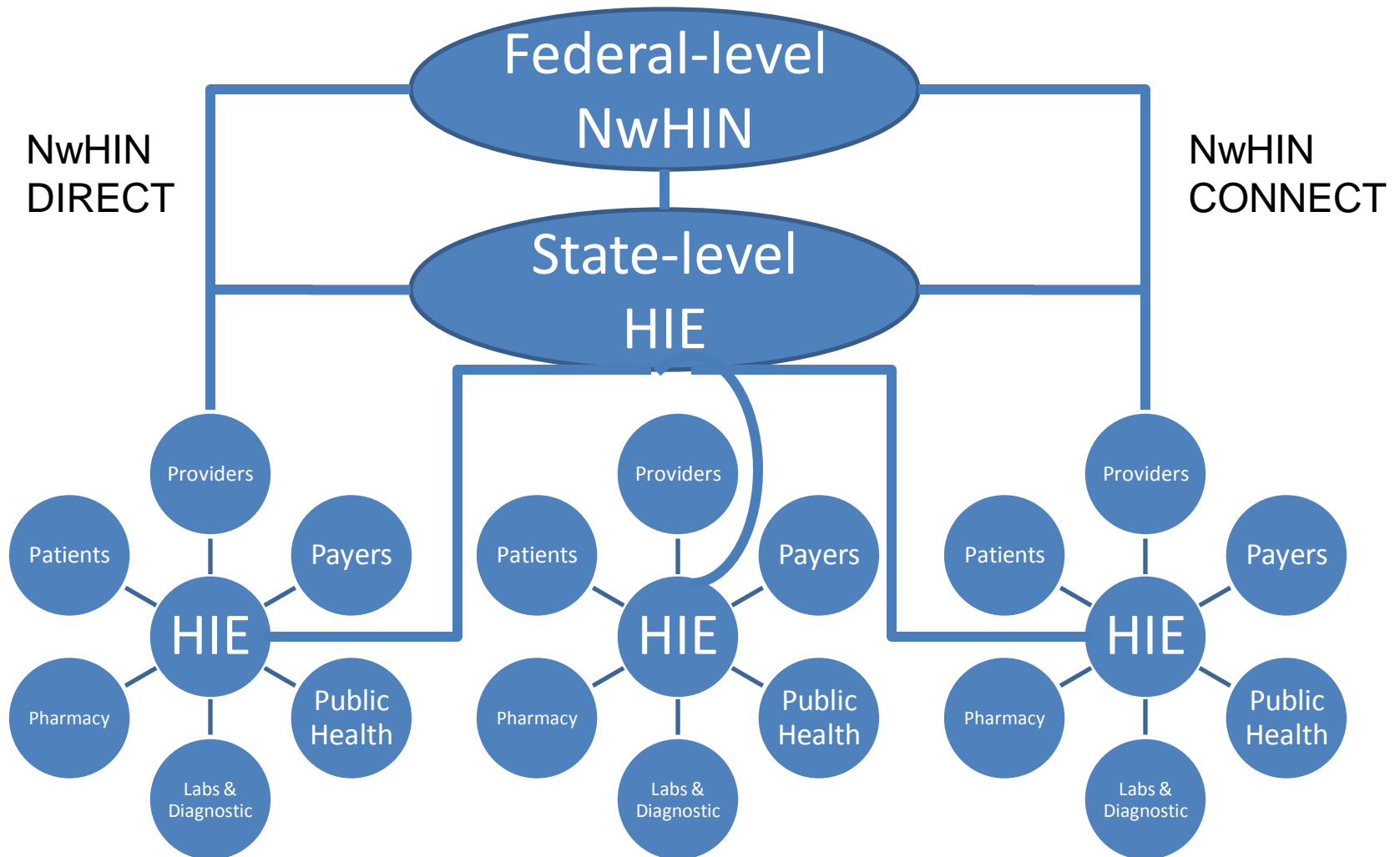
Illinois HIE Participants



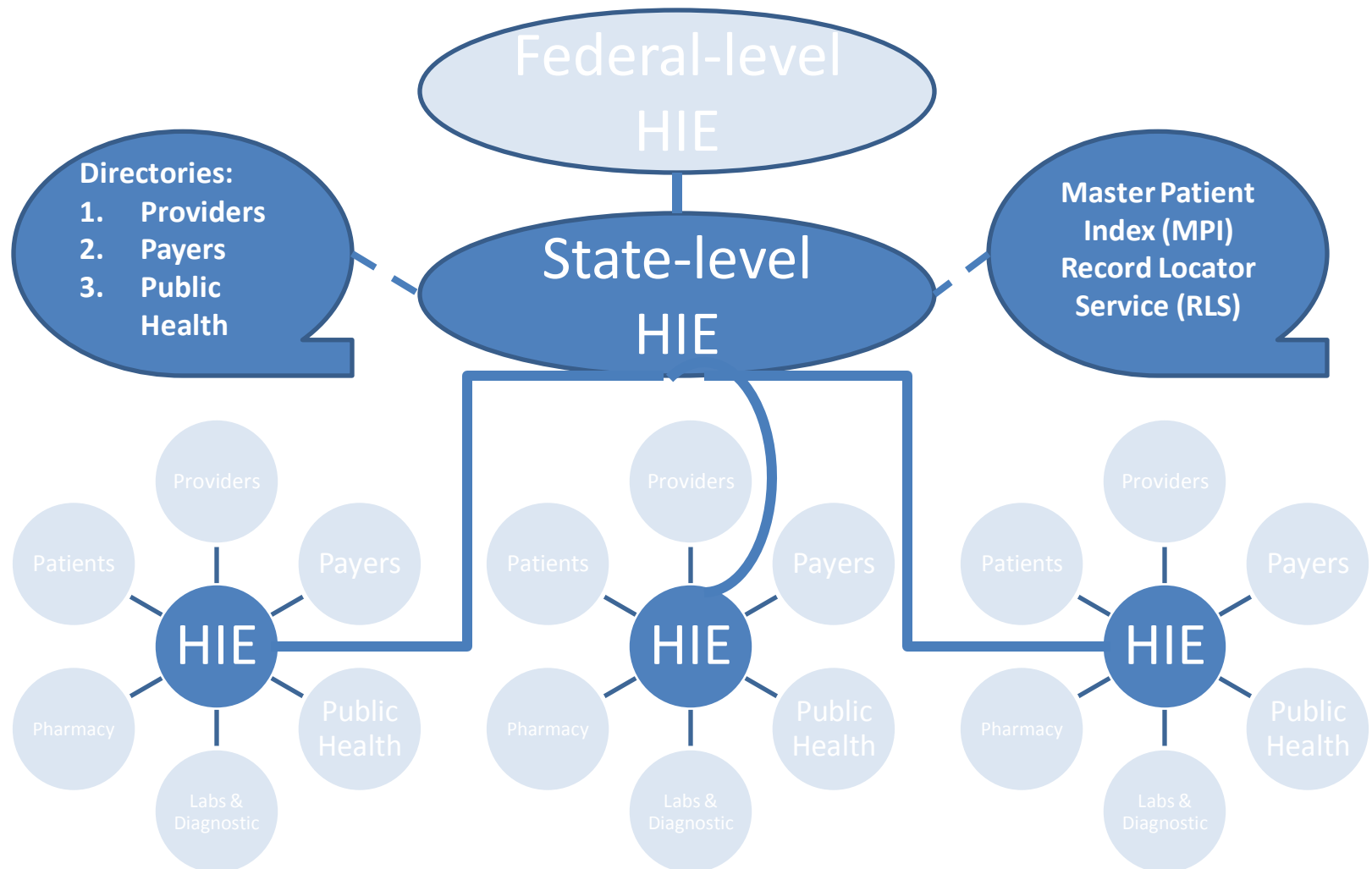
HIE concept: Federated (basic)



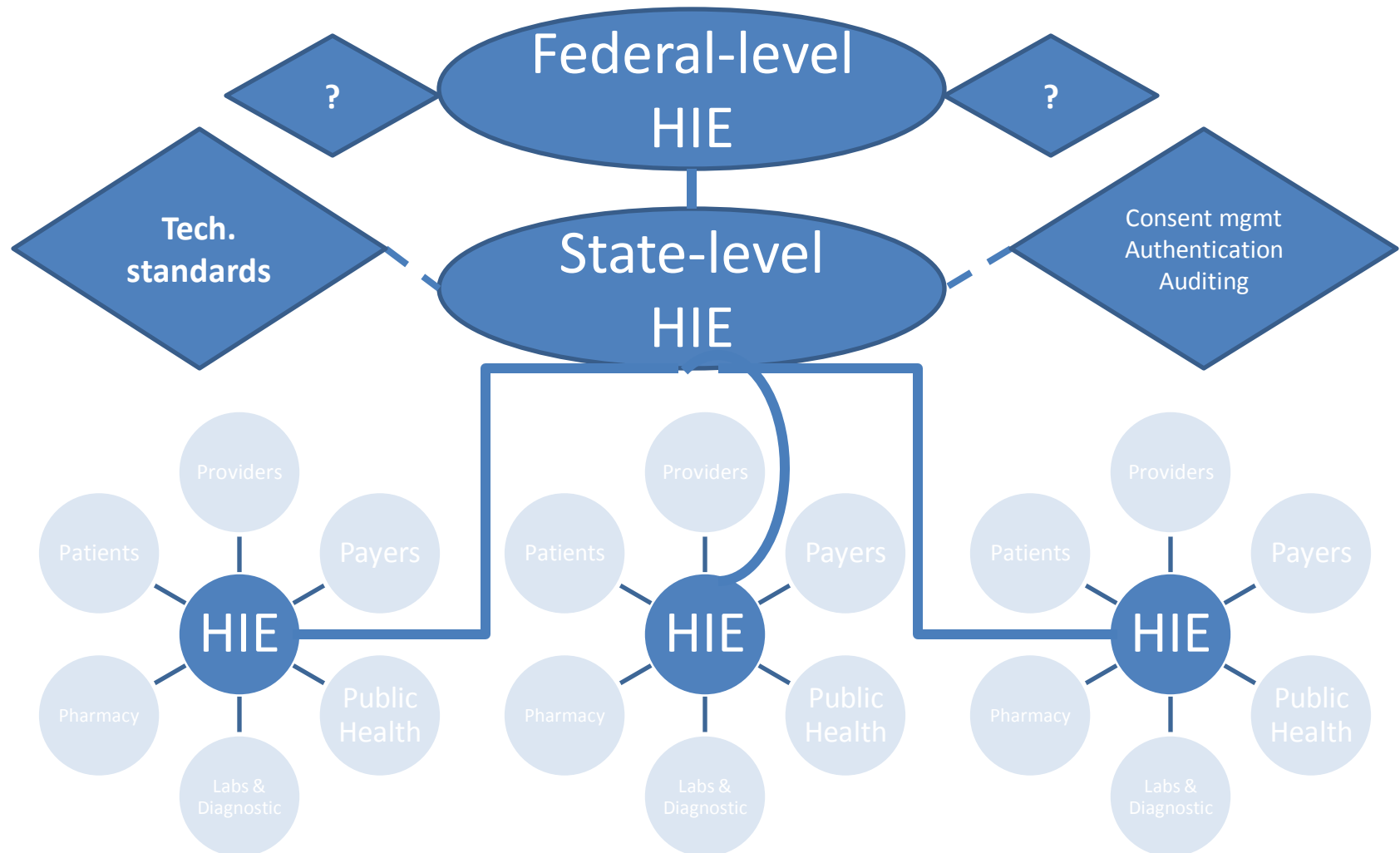
HIE concept: Federated (multi-layer)



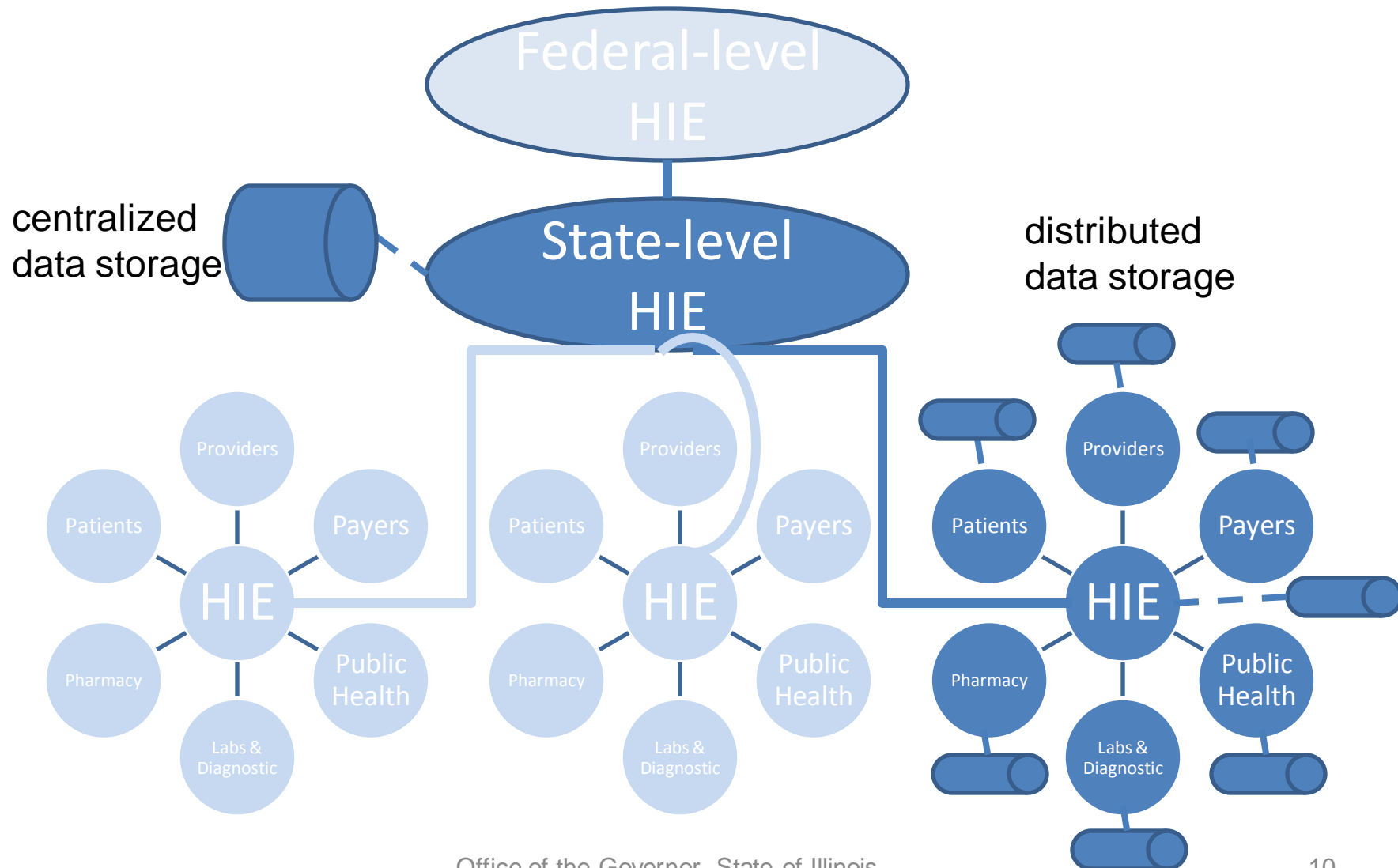
HIE concept: Centralized Core Services



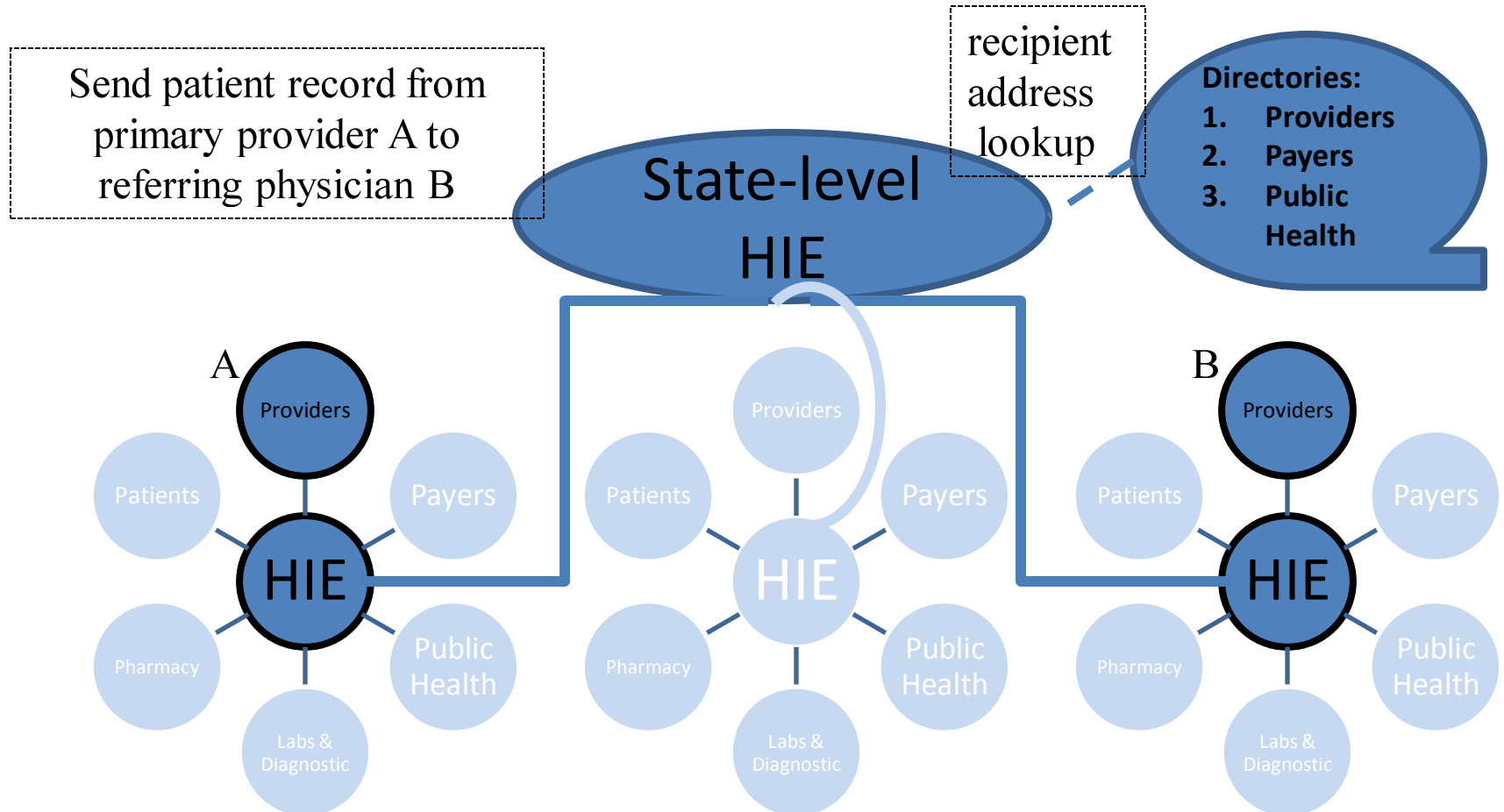
HIE concept: Centralized Standards



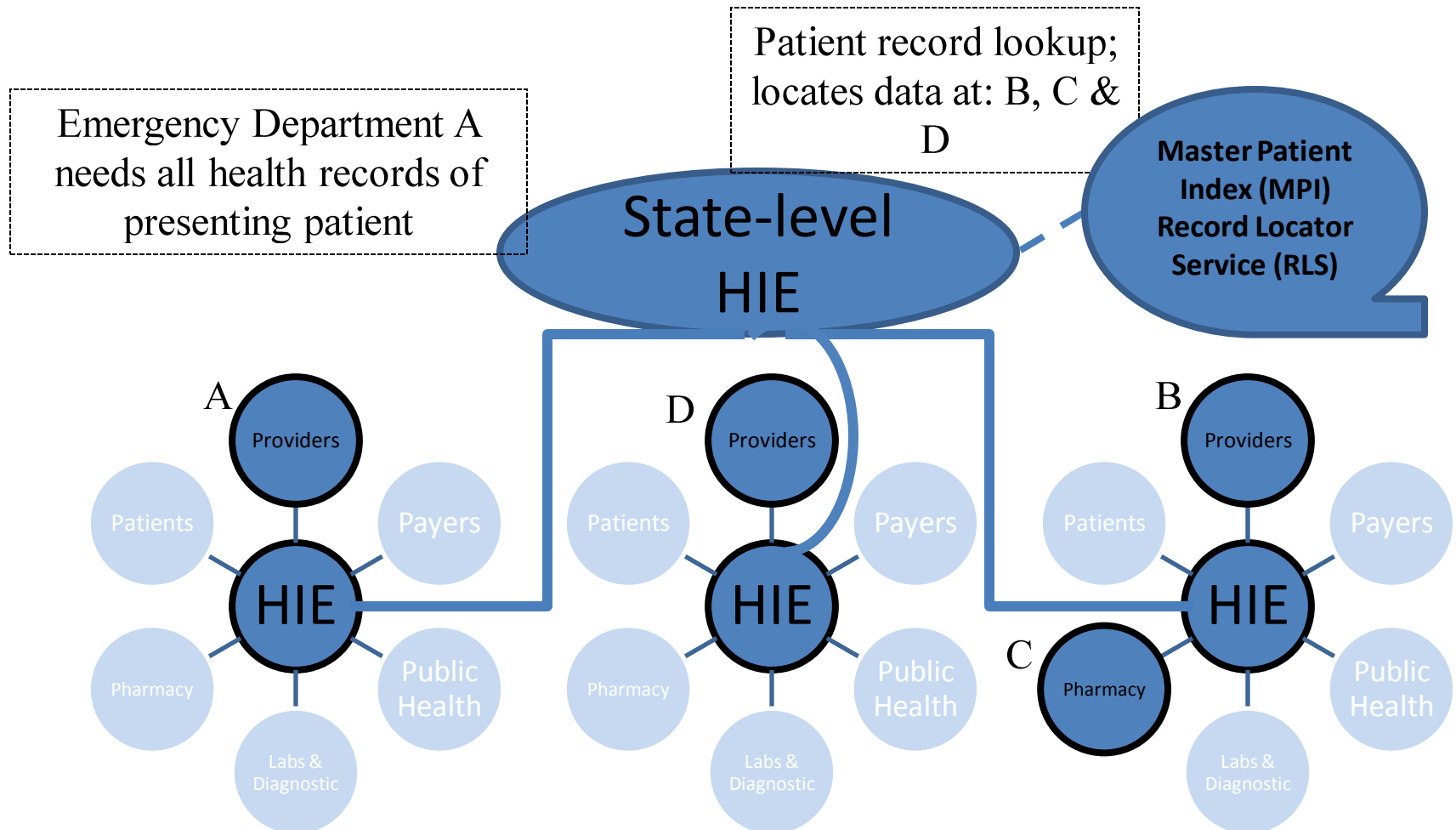
HIE concept: Clinical Data Storage



HIE concept: Directed Message Exchange (“push”)



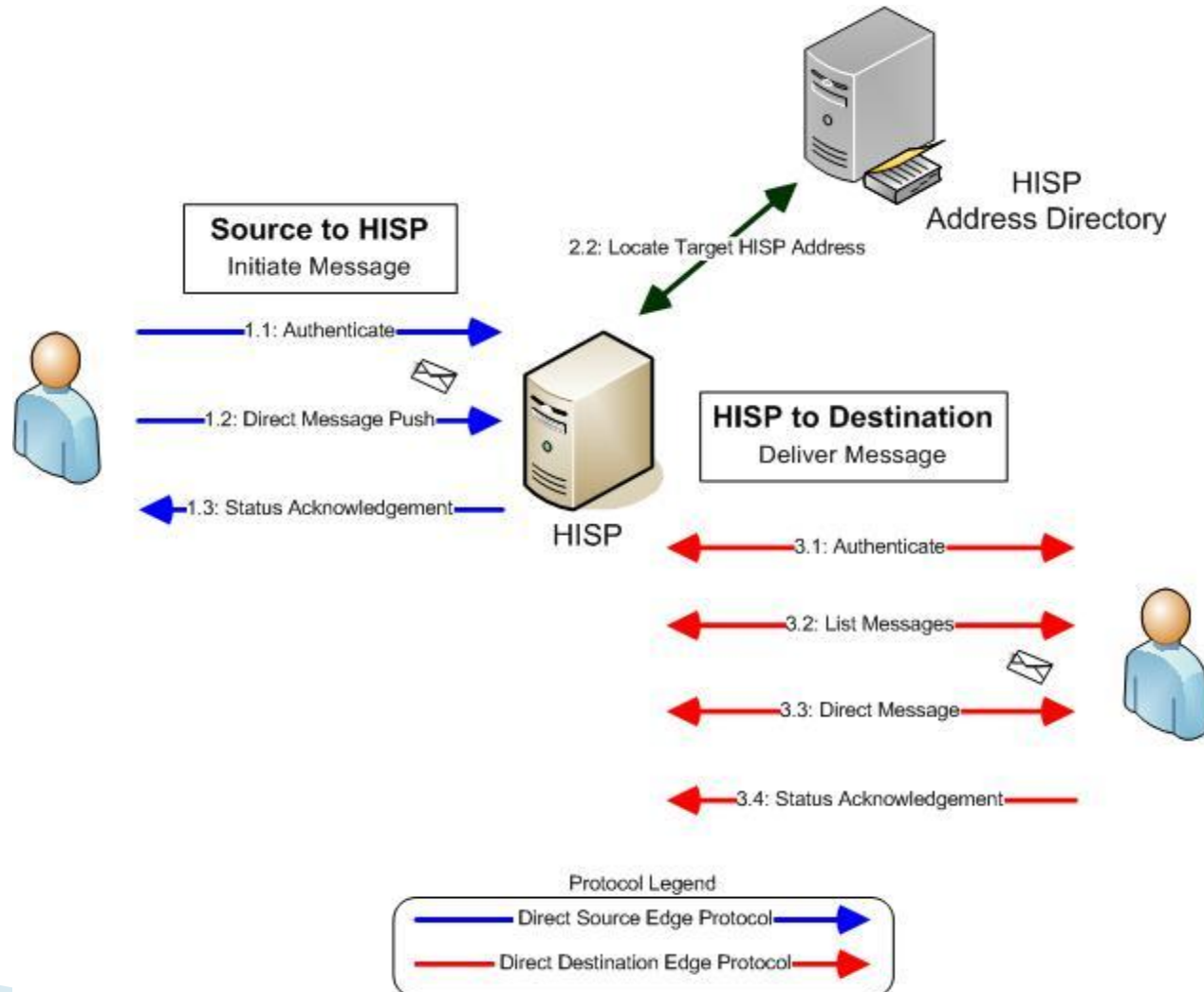
HIE concept: Database Query (“pull”)



ILHIE DIRECT Secure Messaging

- ▶ Protects sensitive health data sent between providers through encryption and is in compliance with HIPAA
- ▶ Allows providers to quickly achieve clinical exchange for Stage 1 Meaningful Use
- ▶ Simple, fast and offered at no cost through December 2012
- ▶ Visit www.ILHIEdirect.net

ILHIE DIRECT Secure Messaging



II. Government Promotion of: EHR adoption & “meaningful use” + HIE development & implementation

- Overview of Federal Initiatives
- Overview of IL State Initiatives



Federal HIT Initiatives

Allocate funding to advancement of health information technology (HIT)

ARRA/HITECH
Act
(2/17/2009)

\$: EHRs

\$: HIEs

The American Recovery and
Reinvestment Act of 2009 (ARRA)
Health Information Technology for
Economic and Clinical Health Act of
2009 (HITECH Act)



Federal Funding of IL Programs

Medicare/Medicaid Provider Incentive Program

- 4/27/12: 9,839 EP & 138 EH registrants; \$180 M distributed

\$18.8 M HIE planning grant awarded to HFS;
performed and administered by OHIT

\$15 M for two Regional Extension Centers
(RECs) to provide HIT assistance to providers

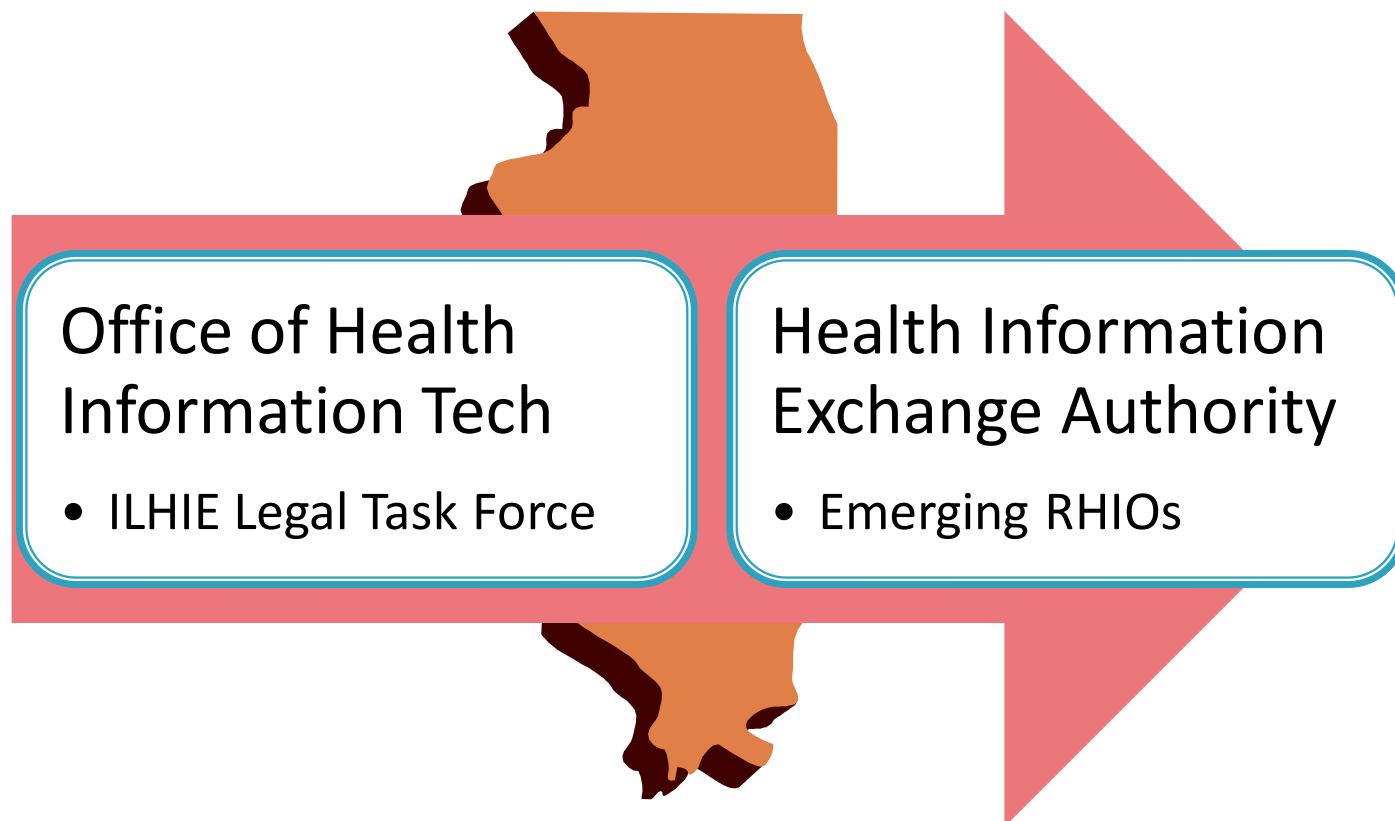
- Statewide - ILTREC, Northern Illinois University
- Chicago - CHITREC, Northwestern University

\$15 M for U of I SHARPS research program

\$245 M rural broadband deployment



IL State HIE Initiatives



IL Health Information Exchange and Technology Act

- ▶ Public Act 96-1331 (2010); 20 ILCS 3860/
- ▶ Created new IL agency to govern and operate the statewide HIE
 - Requires adoption of standards for the use of health information and participation in HIE
 - Ensures appropriate privacy and security

Emerging RHIO initiatives

Metro Chicago HIE (MC-HIE)

- Area 7 – Southern Suburbs
- Area 8 – North Suburbs
- Area 12 – Central Cook
- Area 13 – Northern Cook
- Area 14 – Southern Cook
- Area 16 - DuPage

Central Illinois HIE (CIHIE)

- Area 1- Peoria
- Area 5 - Decatur
- Area 6 – Champaign
- Area 10 - Bloomington

Land of Lincoln HIE/ IHEP

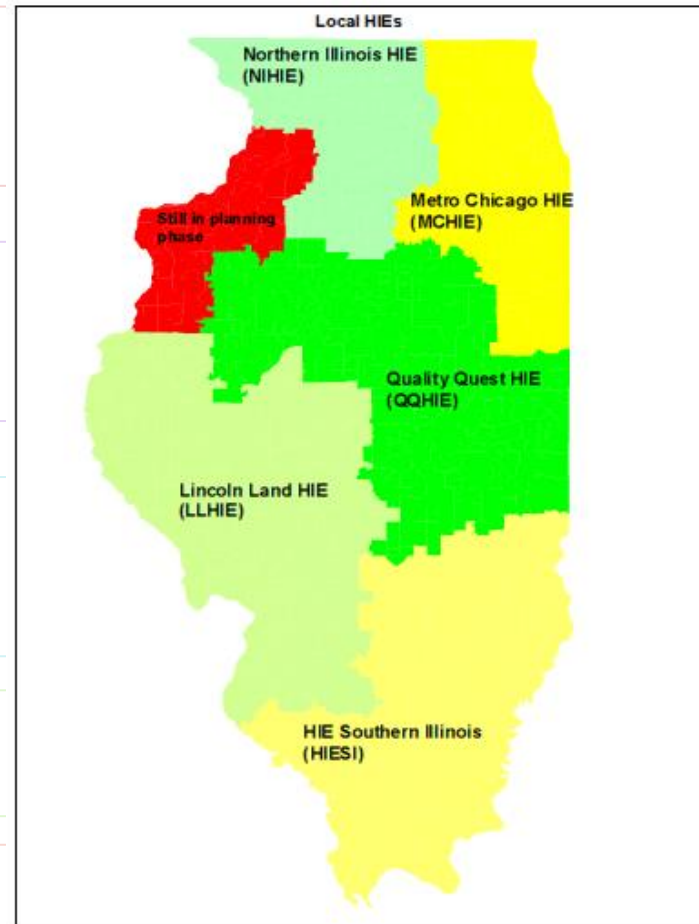
- Area 2 – Springfield
- Area 4 – Metro East
- Area 11 - Quincy

Southern IL HIE

- Area 3 – Southern Illinois

Unaffiliated

- Area 9 - Rockford
- Area 15 – Rock Island



III. Privacy & Security – current landscape

ILHIE Act: protection of patient privacy & security

- ▶ “ILHIE shall be an entity operated by the Authority to serve as a State–level electronic medical records exchange providing for the transfer of health information, medical records, and other health data **in a secure environment.**”
- ▶ “The Authority shall create and administer the ILHIE using information systems and processes that are **secure**, are cost effective, and meet all other relevant **privacy and security** requirements under State and federal law.”
- ▶ “The Authority shall establish minimum standards for accessing the ILHIE to ensure that the appropriate **security and privacy protections** apply to health information, consistent with applicable federal and State standards and laws.”

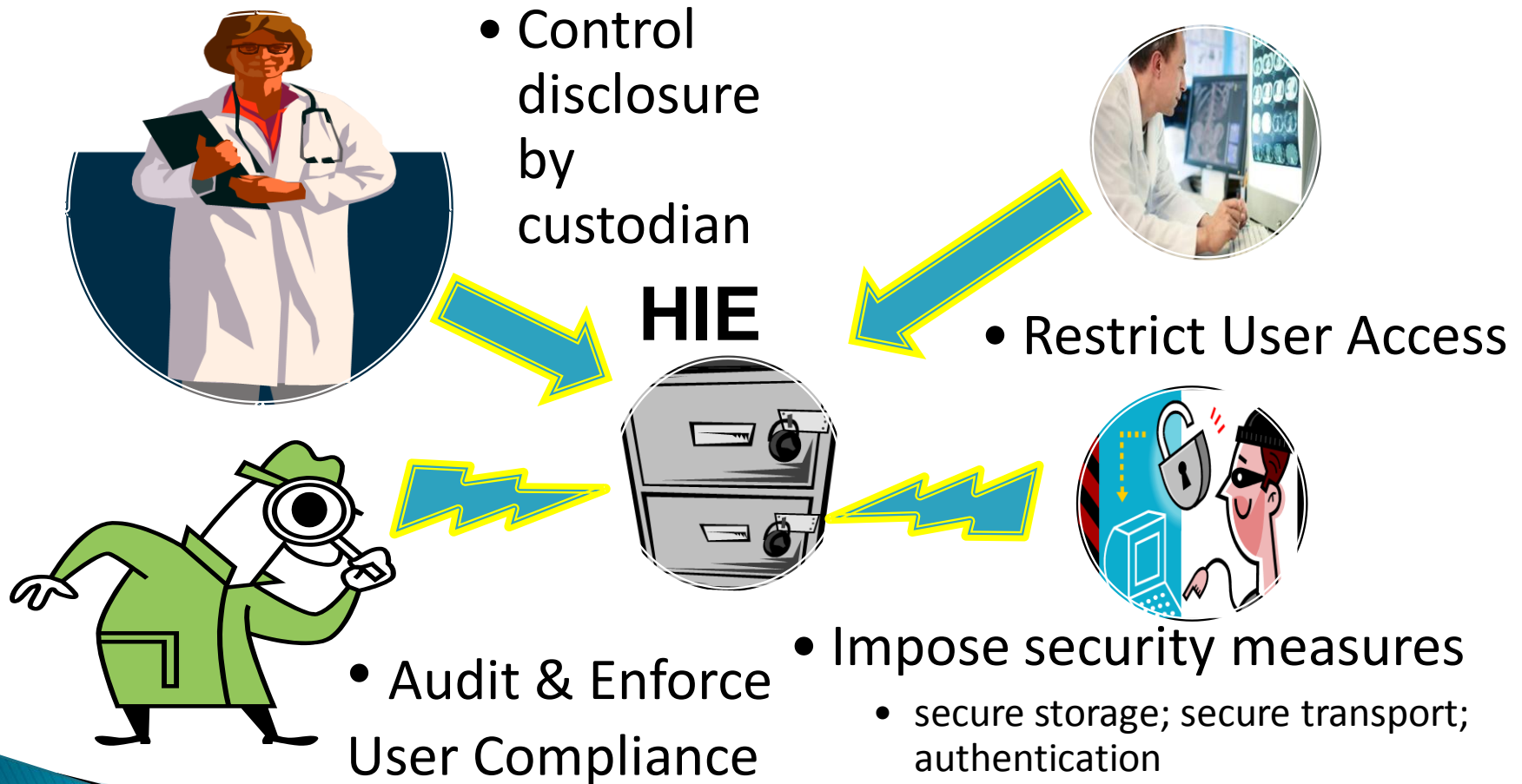
AHIMA Code of Ethics (1998)

- ▶ “Our professional organization:
 - ...Advocates patient privacy rights and confidentiality of health information.

* * *

- ▶ We value:
 - The balance of patients’ privacy rights and confidentiality of health information with legitimate uses of data”

Protecting Personal Health Information



Protecting PHI: HIPAA Privacy Rule



- Control disclosure by custodian



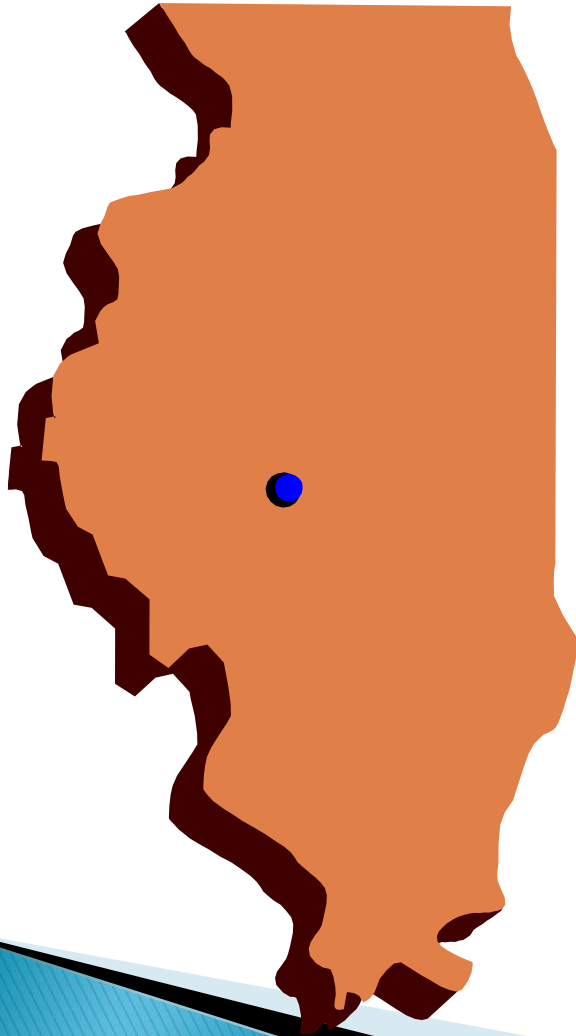
- Restrict User Access

HIE



1. By usage purpose
 2. By patient consent
- “opt-in” = patient agreement to include data in HIE
 - “opt-out” = patient demand to exclude data from HIE

Is IL “Opt-In” or “Opt-Out” State?

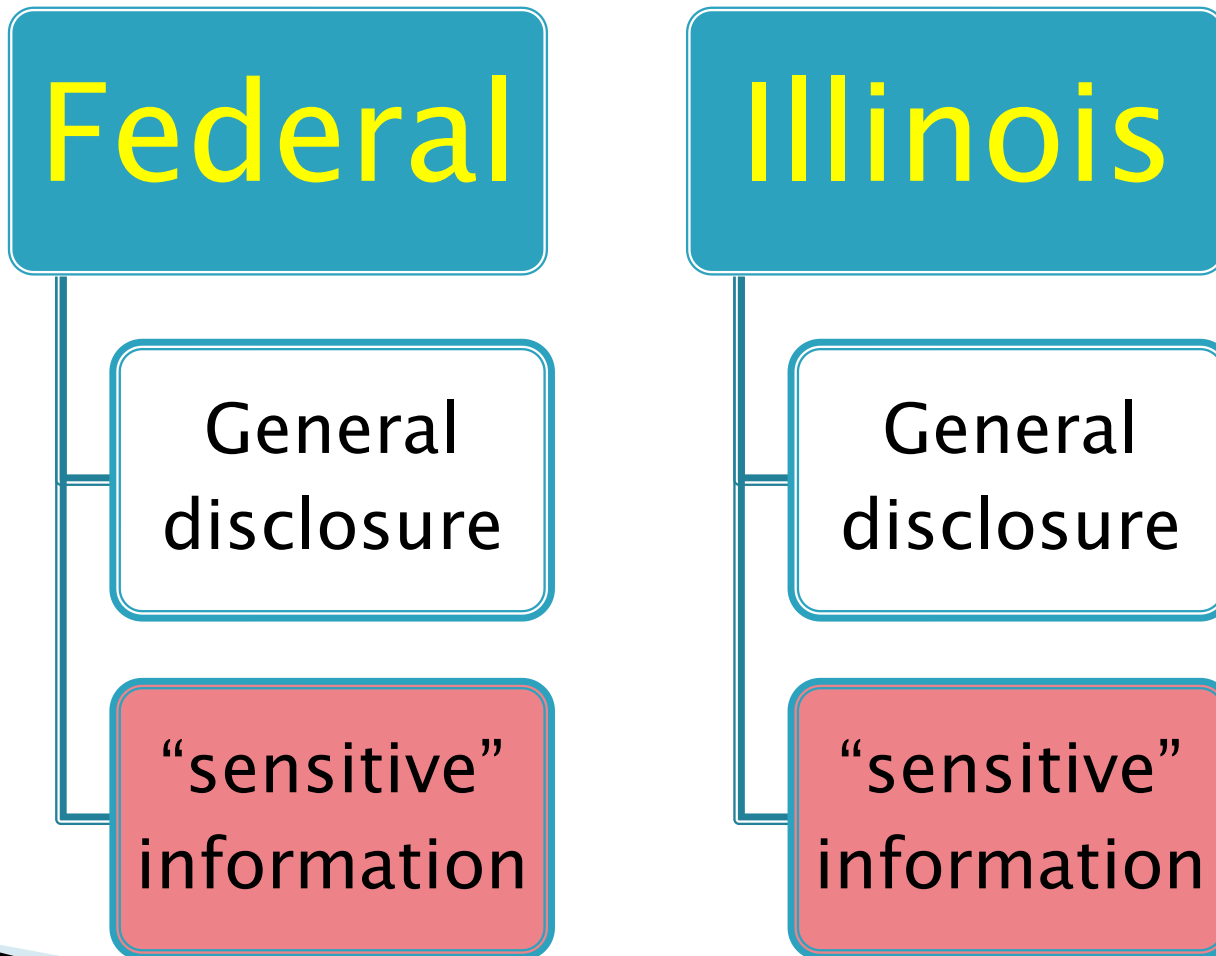


A (lawyer's)
response:

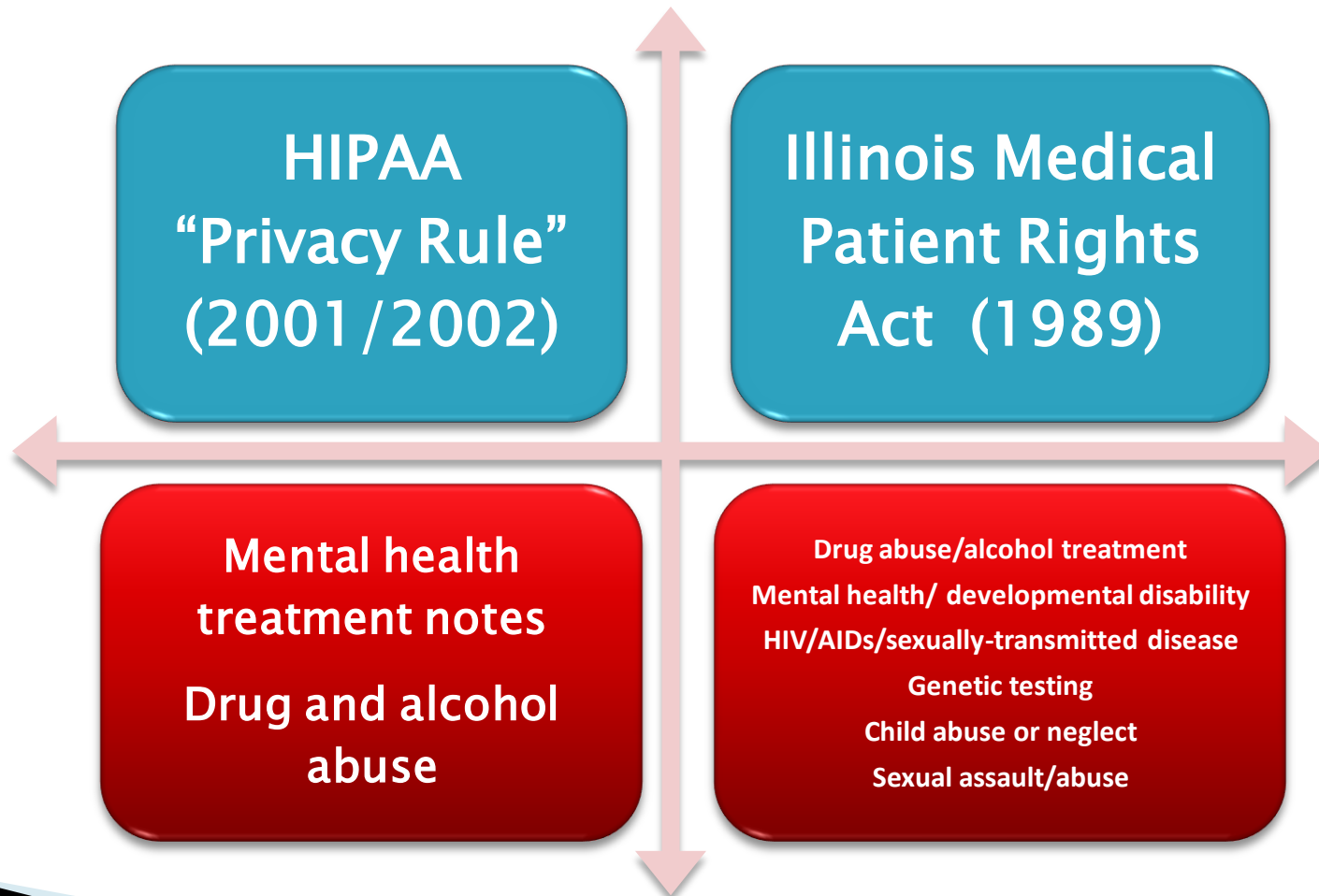
“It depends”

...on 4 sets of rules,
applied to different
use cases

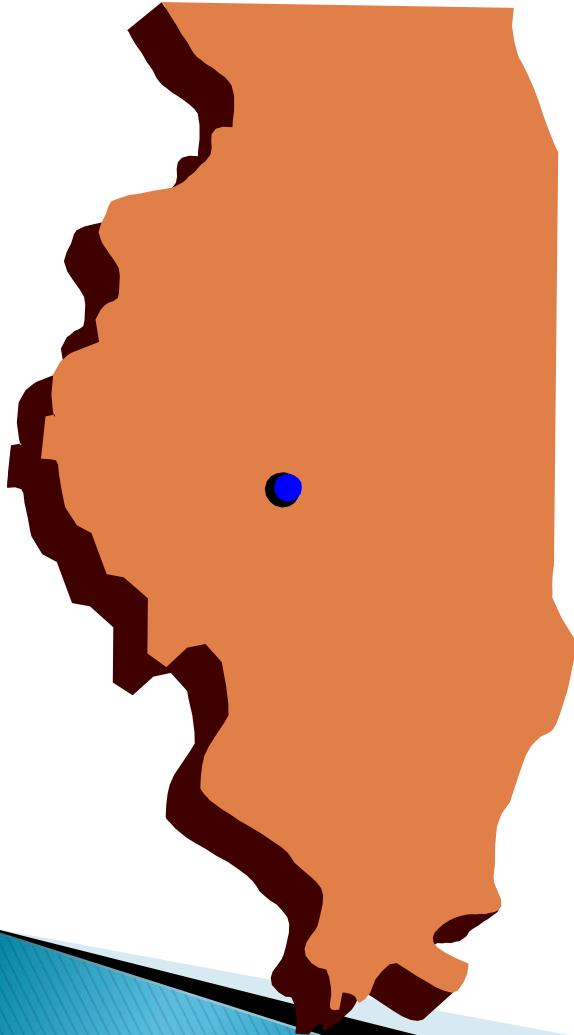
PHI Disclosure Restrictions in Fed & State Law



PHI Disclosure Restrictions in Fed & State Law



Is IL “Opt-In” or “Opt-Out” State?



A: “sensitive” PHI may not be disclosed without affirmative patient consent (“opt-in”)

A: non-“sensitive” PHI could be deposited into an HIE without prior patient consent (“opt-out”) depending on architecture of HIE, including:

- Business Associate agm’t;
- parties given access to HIE data and for what purposes

IV. Privacy & Security – road ahead

Legal & Policy Barriers to HIE

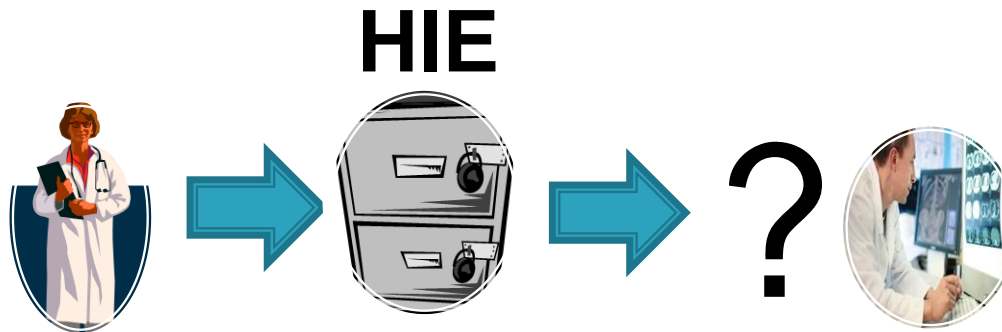
- ✓ Illinois laws predate Federal HIPPA
- ✓ Illinois laws predate electronic exchange



- lack of harmonization between Fed & IL law
 - gaps, giving rise to uncertainty, increased costs and delay in ILHIE implementation
- unanticipated barriers to implementing medical & technological advances

Unanticipated IL law barrier: Behavioral Health Data

- ▶ IL Mental Health & Developmental Disabilities Confidentiality Act (740 ILCS 110/1)
 - Consent for disclosure must be obtained from patients
 - Significant limitations on content of consent
 - No “blanket” consents >>> effect: provider can’t forward behavioral health data to an HIE database for future release to yet-to-be identified data users



IL State HIE Initiatives



Office of Health Information Tech

- ILHIE Legal Task Force

Health Information Exchange Authority

- Data Security & Privacy Com.

IL HIE Legal Task Force Goals

Identify shortcomings in IL law that impede health information exchange (HIE)

Propose solutions to such shortcomings to ILHIE Authority
Data Security & Privacy Com

e.g., (1) regulation;
or (2) new legislation





ILHIE Authority Data Security & Privacy Com.

- ▶ Created by Authority Board, Dec. 1, 2011
- ▶ Chair: Nicholas Panomitros, DDS, MA, JD, LLM
- ▶ 16 members appointed
- ▶ Inaugural Meeting Feb. 8, 2012
- ▶ public testimony at state-wide meetings of
 - behavioral health services providers,
March 29, 2012
 - health informatics professionals (ILHIMA),
May 3, 2012



ILHIE Authority Data Security & Privacy Com.

Key policy questions to be resolved:

- ▶ Is patient consent required for using HIE?
- ▶ Consent in form of “opt-in” or “opt-out”?
- ▶ Consent to collect or consent to disclose?
- ▶ Granular patient consent (can patient select what data to sequester)?
- ▶ State-wide process for consent revocation?
- ▶ State-wide standards for patient matching?
- ▶ HIE-level patient access and correction rights?

For More Information

The Office of the National Coordinator for
Health Information Technology



ONC: www.healthit.hhs.gov



IL HIE: www.hie.illinois.gov